

DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

REMARKS/ARGUMENTS

Entry of this response and reconsideration and allowance of the above-identified patent application are respectfully requested.

Applicant submitted a reply including an amendment on May 18, 2008 that has not been entered. Consequently, Applicant is re-submitting the amendment.

Claims 26-103 were pending. By this amendment, claims 26-42, 45, 46, 49-54, 56, 58-61, 63-66, 68-84, and 86-92 are amended. Claims 93-103 have been canceled. Claims 104-113 have been added. No new matter is added. Upon entry of this amendment claims 26-91 and 104-113 will be pending.

Applicant respectfully submits that, upon entry of the subject amendment, the application will be in condition for allowance. Applicant, thus, respectfully requests consideration of the above amendment and following remarks.

Claims 22-77 stand rejected under 35 U.S.C. § 101 as being directed to unpatentable subject matter.

Claims 26-103 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Publ. No. 2004/0019558 to MacDonald et al. ("MacDonald") in view of U.S. Pat. No. 7,039,805 to Messing ("Messing").

Applicant would like to thank Examiner Augustin for conducting an in-person interview with Applicant's representative. Applicant's representative and Examiner Augustin discussed the prior art in comparison with the claims. The interview was helpful in facilitating and progressing the prosecution of the present application.

The present invention is directed to a system and method for facilitating a closing of a real estate transaction such as a closing a sale of a real estate property or closing a mortgage on real estate property. In contrast to prior art inventions such as those disclosed by McDonald that are directed to electronically receiving an application for a loan, the present invention is directed to closing a real estate transaction. In some embodiments, the closing documents may be transmitted electronically for storage or to a lender.

As discussed with the Examiner during the interview, many of the processes involved in closing a real estate transaction are different than processes used in an electronic loan application process.

Prior Art

MacDonald (2004/0019558):

MacDonald is directed to a system for collecting data for a loan application. See abstract. More specifically, the invention allows non-mortgage related persons (e.g., CPAs, financial planners, attorneys, etc.) to originate loans (i.e., take loan applications). See paras. 31-33.

Referring to Figure 2, the non-mortgage person takes the loan application. The software generates forms that are printed and signed by the borrower. Fig 3 (226, 300, 374, 454) The printed documents are sent to the lender for approval. Fig. 3, (230, 296, 378, 458) Thus, MacDonald is directed to software that receives the user info and prints forms for a loan application that are signed and then sent (e.g., via mail) to the lender.

Messing (7,039,805):

Messing is relied upon in the office action to teach a device for providing electronic signatures.

In addition, the office action also refers to (but does not rely on) U.S. Pat. Nos. 6,594,633 to Broerman ("Broerman"), 6,684,196 to Mini ("Mini") and 6,321,202 to Raveis ("Raveis").

Broerman

The invention of Broerman is directed to a real estate computer network, but fails to disclose facilitating electronic closings, receiving an image of an ancillary document, or many of the claim elements discussed below.

Mini

Mini discloses use of a computer to facilitate automated real estate transactions in which the system performs the steps of printing the documents, the documents are

DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

then signed, and faxing of the documents. See Fig. 21, 2118. Thus, Mini fails to disclose facilitating electronic closings, receiving an image of an ancillary document, or many of the claim elements discussed below.

Raveis

Raveis is directed to a system that allows various parties to cross-sale real estate services. Col. 4, lines 35-44. Raveis fails to disclose facilitating electronic closings, receiving an image of an ancillary document, or many of the claim elements discussed below.

Rejections

All of the independent claims require (in various forms as amended) receiving a digital image of at least one ancillary document.” The office action asserts that MacDonald discloses “receiving a digitally scanned image of at least one ancillary document. However, no specific citation of such a disclosure is provided by the office action. Applicant respectfully submits that MacDonald fails to teach this claim limitation as amended.

More specifically, in MacDonald the loan originator prints out the documents for signature by the borrower, which are then sent (e.g., via mail) to the lender. See paras. 76-78 and cites above. Consequently, Applicant submits that MacDonald teaches away from the present invention.

The claims also require (in various forms) maintaining (and in many dependent claims outputting) electronic closing documents that include the ancillary document in conjunction with said at least one compiled form document with an electronic signature. Because the system of MacDonald fails to receive an image of an ancillary document, the system also does not maintain or output them. More specifically, in MacDonald the ancillary documents are simply collected and sent (e.g., mailed) to the lender. See paras. 76-78.

Thus, Applicant submits that the pending claims (prior to this Amendment) were patentably distinct from the prior art relied upon.

DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

In addition, Applicant submits that MacDonald fails to disclose the subject matter of at least the following claims and the office action is silent as to such disclosure:

- The form document is required to pass title to the property (Claim 40).
- The compiled document comprises a negotiable financial instrument (claims 46, 70, 76, 81, 87, and 110).
- Electronic filing with a government agency (claims 45, 57, and 82).

Amendments

The amendments made herein have been made to clarify the claimed inventions and/or to claim subject matter not yet claimed, but that comprises subject matter Applicant deems believes is worth pursuing patent protection. In view of the comments above regarding the rejections, none of the following claim amendments are deemed by Applicant to be necessary to distinguish over the prior art.

All of the independent claims (claims 26, 64, 65, 72, 78, 84, 89, and 91) have been amended to include the following claim limitation (or a similar limitation):

wherein the real estate transaction information comprises
information identifying a first party to the transaction and
information identifying a property of the real estate transaction;

Support for this claim element can be found in the specification at Figures 11, 12, and 14, the accompanying text, and elsewhere

Similarly, independent claims 26, 64, 65, 72, 78, 84, 89, and 91 have been amended to include the following claim limitation (or a similar limitation):

maintaining one or more financing terms associated with a loan
to be obtained at the closing of the real estate transaction;

Support for this claim element can be found in the specification at page 15, line 21 through page 18, line 23, Figures 13 and 18, and elsewhere.

DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

Independent claims 26, 64, 65, 72, 78, 89, and 91 have been amended to include the following claim limitations (or similar limitations):

- maintaining one or more conditions required to close the real estate transaction;
- maintaining a status of the one or more conditions;

Support for these claims element can be found in the specification at page 19, lines 15-19, Figure 15 and elsewhere.

Independent claims 26, 64, 65, 84, 89, and 91 have been amended to include the following claim limitation (or a similar limitation):

- maintaining payment amounts to be made to one or more entities who are not a party to the real estate transaction;

Support for this claim element can be found in the specification at page 24, lines 1-7, and elsewhere.

Independent claims 64, 65, and 84, and dependent claims 49 and 51 have been amended to include limitations directed the form document being a HUD-1 document or a Truth in Lending document. Support for these claim elements can be found in specification at Figures 19-21 (HUD-1), and 23 (TIL), and the accompanying text at page 21, lines 4-25, (HUD-1); page 22, lines 6-11 (TIL), and elsewhere.

Similarly, independent claims 64, 65, 72, 84, and 89 and dependent claim 60 have been amended to include the following claim limitation (or a similar limitation):

- maintaining information of one or more sub-servicers involved in the real estate transaction;

Support for this claim element can be found in the specification at page 10, lines 19-21, page 14, lines 3-12, Figure 7, and elsewhere.

Similarly, dependent claims 27, 68, 75, 83, and 86, have been amended to include the following claim limitation (or a similar limitation):

DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

maintaining information of a date for disbursing funds and wherein the date is subsequent to a closing date of the real estate transaction.

Support for this claim element can be found in the specification at page 24, lines 8-13, and elsewhere.

Dependent claim 29 has been amended to include the following claim limitation:

maintaining information identifying a method of disbursing funds to at least one party to the real estate transaction.

Support for this claim element can be found in the specification at page 20, lines 16-20, Figure 17, and elsewhere.

Dependent claim 29 has been amended to include the following claim limitation:

wherein at least one of the one or more conditions comprises completion of a survey

Support for this claim element can be found in the specification at Figure 15 (see "survey" under conditions), and elsewhere.

While Applicant respectfully refutes the rejection under 35 U.S.C § 101, Applicant submits that the amendments made herein overcome those rejections.

In view of the foregoing, it is respectfully submitted that the claimed invention is patentably distinguished over the asserted prior art references and that the application stands in condition for allowance. It is respectfully requested that the application be reconsidered, that all pending claims be allowed, and that the application be passed to issue.

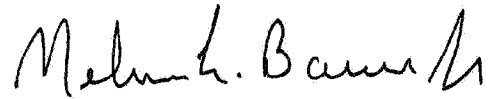
DOCKET NO.: REM-101
Application No.: 10/678,118
Office Action Dated: September 3, 2008

CONCLUSION

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact Mel Barnes at (410) 757-6643, to discuss any other changes deemed necessary in a telephonic interview.

Authorization is hereby granted to charge any deficiencies in fees, including any fees for extension of time under 37 C.F.R. §1.136(a), to Deposit Account 50-3970. Please credit any overpayment in fees to the same deposit account.

Date: September 11, 2008



Melvin L. Barnes, Jr.
Registration No. 38,375

Capital Legal Group, LLC
1100 River Bay Road
Annapolis, MD 21409
Telephone: (410) 757-6643
Facsimile: (202) 318-7456